



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 28, 1993

Mr. Richard A. Woods
Union Hill Independent School District
P.O. Box 370
Gilmer, Texas 75644

OR93-217

Dear Mr. Woods:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code (former V.T.C.S. article 6252-17a).¹ Your request was assigned ID# 19190.

The Union Hill Independent School District has received a request for information relating to allegations of student drug use. Although you advise us that no records exist that are responsive to the request, you have submitted to us for review a list that identifies those students allegedly involved in drug use. We assume for purposes of this ruling that this document is responsive to the request.

Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." We note that some of the requested information is excepted from required public disclosure by section 552.101 in conjunction with the federal Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g. FERPA provides the following:

No funds shall be made available under any applicable program to any educational agency or institution which has a policy or practice of permitting the release of educational records (or personally identifiable information contained therein . . .) of students without the written consent of their parents to any individual, agency, or organization

¹The Seventy-Third Legislature repealed article 6252-17a, V.T.C.S. Acts 1993, 73d Leg., ch. 268, § 46, at 988. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

20 U.S.C. § 1232g(b)(1). "Education records" are records which:

- (i) contain information directly related to a student; and
- (ii) are maintained by an educational agency or institution or by a person acting for such agency or institution.

Id. § 1232g(a)(4)(A); *see also* Gov't Code § 552.026 (incorporating FERPA requirements into Open Records Act). Information must be withheld from required public disclosure under FERPA only to the extent "reasonable and necessary to avoid personally identifying a particular student." Open Records Decision Nos. 332 (1982); 206 (1978).

We have examined the document submitted to us for review. It clearly contains information identifying students. We note, however, that the requestor is a parent of one of the students at issue and has consented in writing to release of information regarding his child. Accordingly, in accordance with FERPA, the name of the requestor's child must be released. The remaining information, however, must be withheld from required public disclosure under section 552.101 of the Government Code.

Because prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact our office.

Yours very truly,



Rebecca L. Payne
Section Chief
Open Government Section

RLP/GCK/rho

Ref.: ID# 19190
ID# 19546